

**James Madison to Robert Livingston, May 28, 1803.
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TO ROBERT R. LIVINGSTON AND JAMES MONROE. D. OF S. MSS. INSTR.

Department of State, May 28th 1803

Gentlemen,

Since my last which was of April 18th the tenor of our information from France and Great Britain renders a war between these powers in the highest degree probable. It may be inferred at the same time from the information given by Mr. Livingston and Mr. King, that the importance of the United States is rising fast in the estimation both of the French and the British Cabinets, and that Louisiana is as much a subject of solicitude with the latter, as it has been an object of acquisition with the former. The crises presented by this jealous and hostile attitude of those rival powers has doubtless been seen in its bearings on the arrangements contemplated in your Commission and instructions; is hoped, tho' we have not yet heard, that the arrival of Mr. Monroe will have taken place in time, to give full advantage to the means of turning the actual state of things to the just benefit of the United States.

The solicitude of England with respect to Louisiana is sufficiently evinced by her controuling the French expedition from Holland to that Country. But her views have been particularly unfolded to Mr. King by Mr. Addington, who frankly told him that in case a war should happen, it would perhaps be one of their first steps to occupy New Orleans, adding that it would not be to keep it, for that England would not accept the Country were

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all agreed to give it to her, but to prevent another power from obtaining it, which in his opinion would be best effected by its belonging to the United States; and concluding with assurances that nothing should be done injurious to their interests. If the Councils of France should be guided by half the wisdom which is here displayed on the part of her rival, your negotiations will be made easy, and the result of them very satisfactory.

Altho' the immediate object of Great Britain in occupying New Orleans may be that of excluding France, and altho' her prudence may renounce the fallacious advantage of retaining it for herself, it is not to be presumed that she will yield it to the United States without endeavouring to make it the ground of some arrangement that will directly or indirectly draw them into her war, or of some important concessions in favour of her commerce at the expence of our own. This consideration necessarily connects itself with the explanation, and friendly assurances of Mr. Addington, and so far leaves in force the inducement to accomplish our object by an immediate bargain with France.

In forming this bargain however, the prospect held out by the British Minister, with the nature of the crisis itself, authorizes us to expect better terms than your original instructions allow.

The President thinks it will be ineligible under such circumstances that any Convention whatever on the subject should be entered into, that will not secure to the United States the jurisdiction of a reasonable district on some convenient part of the Bank of the Mississippi.

He is made the more anxious also by the manner in which the British Government has opened itself to our Minister as well as by other considerations, that as little concession as possible should be made in the terms with France on points disagreeable to Great Briatin, and particularly that the acknowledgment of the right of France as holding one shore of the Mississippi to shut it against British vessels, should be avoided, if not essential to the

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attainment of the great objects we have in view, on terms otherwise highly expedient. It is desirable that such an acknowledgement should not even be admitted into the discussion.

The guarantee of the Country beyond the Mississippi is another condition, which it will be well to avoid if possible, not only for the reasons you already possess, but because it seems not improbable from the communications of Mr. King that Great Britain is meditating plans for the emancipation and independence of the whole of the American Continent, South of the United States, and consequently that such guarantee would not only be disagreeable to her, but embarrassing to the United States. Should War indeed precede your Conventional arrangements with France, the guarantee, if admitted at all, must necessarily be suspended and limited in such a manner as to be applicable only to the state of things as it may be fixed by a peace.

The proposed occupancy of New Orleans by Great Britain, suggests a further precaution. Should possession be taken by her, and the preliminary sum of 2 Millions or any part of it be paid to France, risks and disputes might ensue, which make it advisable to postpone the payment till possession shall be given to the United States, or if this cannot be done, obtain possible security against eventual loss.

As the question may arise, how far in a state of War, one of the parties can of right convey territory to a neutral power, and thereby deprive its enemy of the chance of conquest incident to war, especially when the conquest may have been actually projected, it is thought proper to observe to you 1st That in the present case the project of peaceable acquisition by the United States originated prior to the War, and consequently before a project of conquest could have existed. 2dly That the right of a neutral to procure for itself by a bona fide, transaction property of any sort from a belligerent power ought not to be frustrated by the chance that a rightful conquest thereof might thereby be precluded. A contrary doctrine would sacrifice the just interests of peace to the unreasonable pretensions of war, and the positive rights of one nation to the possible rights of another. A restraint on the alienation of territory from a nation at War to a nation at peace is imposed

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only in cases where the proceeding might have a collusive reference to the existence of the War, and might be calculated to save the property from danger, by placing it in secret trust, to be reconveyed on the return of peace. No objection of this sort can be made to the acquisitions we have in view. The measures taken on this subject, were taken before the existence or the appearance of war, and they will be pursued as they were planned, with the bona fide purpose of vesting the acquisition forever in the United States.

With these observations, you will be left to do the best you can, under all circumstances, for the interest of your Country; keeping in mind that the rights we assert are clear, that the objects we pursue are just, and that you will be warranted in providing for both by taking every fair advantage of emergencies.

For the course of information relating to the deposit at New Orleans, I refer you to my letter of the 25th inst; to Mr. Livingston.